

AO 91 (Rev. 11/11) Criminal Complaint

## UNITED STATES DISTRICT COURT

for the

Northern District of New York



ORIGINAL

UNITED STATES OF AMERICA

v.

Case No. 5:21-MJ-

58  
①

RICHARD F. CURTIS,

Defendant.

U.S. DISTRICT COURT - N.D. OF N.Y.	
FILED	
JAN 27 2021	
AT	O'CLOCK
John M. Domurat, Clerk - Syracuse	

## CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of September 2017 in the county of Onondaga in the Northern District of New York the defendant violated:

*Code Section*

18 U.S.C. § 2252A(a)(2)(A)

*Offense Description*

Knowingly Received Child Pornography that had Been Transported  
Using any Means of Interstate and Foreign Commerce and in and  
Affecting Such Commerce

This criminal complaint is based on these facts:

See attached affidavit

☒ Continued on the attached sheet.

Complainant's signature

Martin Baranski, Special Agent

Printed name and title

Attested to by the affiant in accordance with Rule 4.1 of the Federal Rules of Criminal Procedure.

Date: January 27, 2021

Judge's signature

City and State: Syracuse, New York

Hon. Andrew T. Baxter, U.S. Magistrate Judge

Printed name and title

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF NEW YORK

**AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT**

I, Martin Baranski, being duly sworn, depose and state:

**INTRODUCTION**

1. I am a Special Agent employed by the United States Department of Justice, Federal Bureau of Investigation (“FBI”). I am an investigative or law enforcement officer of the United States within the meaning of Title 18, United States Code, Section 2510(7)—that is, I am an officer of the United States who is empowered by law to conduct investigations of offenses enumerated in Title 18, United States Code, Section 2516(1). As an FBI Special Agent, I am authorized to seek and execute federal arrest and search warrants for Title 18 criminal offenses, including offenses related to the sexual exploitation of minors in violation of Title 18, United States Code, Sections 2252 and 2252A. I have been a Special Agent with the FBI since October 2018. I am currently assigned to the FBI’s Albany Division. I have received training in the area of child sexual exploitation and have had the opportunity to observe and review examples of child pornography in all forms of media, including computer media.

2. This affidavit is made in support of an application for a criminal complaint charging Richard F. Curtis with knowingly receiving child pornography using a means and facility of interstate and foreign commerce, and in and affecting such commerce, in violation of Title 18 United States Code, Section 2252A(a)(2)(A).

3. The statements contained in this affidavit are based upon my investigation, information provided by other law enforcement officers and FBI personnel, and on my experience and training as a Special Agent of the FBI. As this affidavit is being submitted for the limited purpose of establishing probable cause for a criminal complaint, I have not included each and every fact known to me concerning this investigation. I have set forth only the facts that I believe

are necessary to establish probable cause to believe that Curtis has received child pornography in violation of Title 18, United States Code, Section 2252A(a)(2)(A).

### **FACTUAL BACKGROUND**

#### **Mechanicsburg, OH Investigation**

5. In April 2018, A. C., the mother of a 12-year old child (hereinafter “Victim 1”), obtained Victim 1’s iPod and discovered sexually explicit images being sent to her daughter and from her daughter to Instagram user “fashiondesign564”. This activity included specific requests sent by the fashiondesign564 to Victim 1 requesting that Victim 1 perform sexually explicit acts. Victim 1 then complied with these requests sending the requested images back to fashiondesign564. Victim 1’s mother reported this activity to Captain Scott Bodey of the Mechanicsburg, OH, Police Department (“PD”), and this reporting was subsequently provided to your Affiant.

6. Victim 1’s mother found that Victim 1 had two separate Instagram accounts and found a conversation between one of Victim 1’s Instagram accounts and fashiondesign564. Victim 1’s mother observed, within this conversation with fashiondesign564, several messages, photographs and videos that are sexually explicit in nature that Victim 1 both sent to fashiondesign564 and received from fashiondesign564. Victim 1’s mother supplied Capt. Bodey with Victim 1’s iPod and the password to gain access to the iPod.

7. Capt. Bodey observed a conversation dated August 12, 2017 on Victim 1’s iPod between Victim 1 and fashiondesign564. Victim 1 messaged fashiondesign564 and stated, “I want to be a model”. During the course of this conversation, fashiondesign564 requested to see pictures of Victim 1, to include Victim 1’s clothes.

8. On August 16, 2017 fashiondesign564 messaged Victim 1 and stated, “take the shirt off and show it”. Victim 1 confirmed with fashiondesign564 user that fashiondesign564 user

wanted Victim 1 to take Victim 1's shirt and tank top off. Fashiondesign564 user stated, "ya". Several pictures were then shared by Victim 1 that were no longer viewable through Instagram or Victim 1's iPod.

9. On September 11, 2017, Victim 1 requested a "vagina" photograph from fashiondesign564. Fashiondesign564 sent a video to Victim 1 that depicted a woman's torso in which the woman can be seen rubbing her vagina and exposing her breasts. On the same date, Victim 1 requested fashiondesign564 to send "something else". Fashiondesign564 user sent a video to Victim 1 that shows the backside of a topless female. This female is wearing a thong bikini underwear and is "twerking". Twerking is a sexually suggestive dance characterized by rapid, repeated hip thrusts and shaking of the buttocks, especially while squatting. Fashiondesign564 sent a photograph to Victim 1 of a woman's bare lower torso with the woman's legs spread apart, bearing an exposed vagina.

10. On September 12, 2017, Victim 1 sent a photograph that showed her left breast. Fashiondesign564 user responded by asking Victim 1 to "show everything". Victim 1 sent another photograph to fashiondesign564 that shows both of Victim 1's breasts. Fashiondesign564 sent a video to Victim 1 showing a female masturbating her clitoral area. Victim 1 sent a video of Victim 1 masturbating Victim 1's own vagina. Victim 1 sent a video to fashiondesign564 of Victim 1 playing with their breast, masturbating, and twerking. The last image on the iPod sent from Victim 1 to fashiondesign564 appears to have been on September 12, 2017, at 8:16pm. That image is of Victim 1 completely naked.

11. On January 17, 2019, your Affiant served a subpoena on Facebook, for Instagram information related to fashiondesign564. Instagram returned subscriber information for fashiondesign564, showing an account registration date of March 28, 2017, with a registration IP address of 45.47.32.164 which through legal process discussed further below was found to resolve

to Richard Curtis at 3750A Helios Court, Baldwinsville, NY. Instagram also returned an IP address login for fashiondesign564 on October 5, 2017, with IP address 72.90.81.5, which through subsequent legal process resolved to Moyers Corners Fire Department as the subscriber.

**Federal Search Warrant of Instagram Account fashiondesign564, a.k.a. Richard F. Curtis**

12. A search warrant, issued in the United States District Court for the Northern District of New York by U.S. Magistrate Judge Andrew Baxter on July 24, 2019, was executed on the same date by your affiant to Facebook.

13. Facebook returned the records, media, and related content for Instagram account, fashiondesign564 on August 29, 2019. Your affiant reviewed the fashiondesign564 records and related media as it pertains to the activities described in paragraphs 6 through 11 above. All activity as described in those paragraphs as relayed by Capt. Bodey were discovered in their entirety with no exceptions. The conversations, to include requests for Victim 1 to show her vagina and to show “everything” were observed by your affiant, exactly as described per Capt. Bodey’s account. In total, your affiant discovered five videos that display Victim 1 in a lewd and lascivious manner. The videos are described as follows:

- a. Video 1: Displays Victim 1 with her shorts slightly pulled down as she digitally masturbates her vagina. The video is approximately eight seconds long. This video was sent shortly after Curtis’s “Vagina” request.
- b. Video 2: Displays Victim 1 as she digitally masturbates her vagina. This video is approximately six seconds long, and Victim 1 says “your turn” to Curtis, indicating a request for Curtis to share a like-kind video.
- c. Video 3: Displays Victim 1 twerking from behind, with a tie-dye t-shirt on and shorts pulled down to her knees. During the course of twerking, Victim 1’s vagina is

partially visible. The video is approximately five seconds long and is sent in response to Curtis's request, "I want to see you twerking".

d. Video 4: Displays Victim 1 as she digitally masturbates her vagina, with a tie-dye t-shirt on and no pants or shorts visible. The video is approximately nine seconds long and was in response to Curtis sending a video of an adult female masturbating. Just minutes before sending this video, Victim 1 tells Curtis that Victim 1 is 14 years old.

e. Video 5: Displays Victim 1 as she grabs her breast with no shirt on, pulls down her shorts and begins to digitally masturbate her vagina, briefly twerks, and then digitally masturbates her vagina again. The video is approximately twelve seconds long and is sent shortly after Curtis requests, "make a stripping video".

14. Per review of Curtis's fashiondesign564 records, your affiant discovered a second victim (hereafter "Victim 2"). On July 6, 2017, Curtis, using his fashiondesign564 account, reached out to Victim 2. Note, however, that Curtis's 18<sup>th</sup> birthday falls on August 3, 2017. As a result, only activity beginning on or after August 3, 2017, will be considered.

15. However, it should be noted that during this intervening time period, prior to making any requests, Curtis asks whether Victim 2 can have any friends come over. Victim 2 cites two friend's names, to which Curtis repeatedly asks Victim 2 as to whether the friends can come over. Victim 2 tells Curtis that Victim 2's friends can't come over and adds rationale, "Because she was on a vacation with her family while I was at school". Furthermore, Victim 2 shares a picture of herself from Facebook that was tagged with a location of Michigan-area high school. The "school" comment made by Victim 2, in combination with the Michigan-area high school location tag, indicate that Victim 2 is a high school student. The comment and tag, when taken in combination with the pictures shared by Victim 2, clearly indicate that Victim 2 is under 18 years

of age. While never explicitly referencing her age during the chats, the victim at the time was 15 years old.

16. On August 3, 2017, Curtis requests videos from Victim 2, saying, "Make me videos", and "sexy video" in response to Victim 2's clarifying question as to what kind of videos. Curtis tells Victim 2 to "Put a thong on" and then later specifies that he wants it to be pink in color. Curtis makes repeated requests for Victim 2 to send videos, with recurrent messages of "send it".

f. Video 1: Displays Victim 2 as she digitally masturbates her vagina. The video is approximately nine seconds long and is sent in response to Curtis's request that she "Finger your pissy".

17. Victim 2 was identified through the course of the investigation and a lead was sent to FBI Detroit, TFO Amy Belanger, to interview Victim 2. Victim 2 was interviewed on October 7, 2019 at a local child advocacy center. The forensic interview was conducted by Forensic Interviewer (FI) Angela Essenburg. Victim 2, was accompanied by her biological father.

18. Prior to the interview of Victim 2, Victim 2's father informed TFO Belanger that Victim 2 has been diagnosed with autism. Victim 2 stated that she had sent and received inappropriate pictures to a student at her high school. Victim 2 also admitted that she had seen nude pictures on Instagram, but said they were posted by "people" and was not able to provide specific names or details. Victim 2 also made statements that "some guy in New York" has inappropriate pictures of her. Victim 2 denied sending any pictures to someone claiming to be from a "modeling agency" and denied knowing the username "fashiondesign564."

19. FI Essenburg was provided pictures of Victim 2 that were obtained from the Curtis's fashiondesign564 account. Victim 2 was able to confirm three of the pictures were of her and also verified that she had taken one of the pictures in her father's bedroom. After the third picture was shown to Victim 2, she refused to look at any additional images.

20. In addition, to the victims discussed above, Richard F. Curtis through his fashiondesign564 account followed thousands of Instagram accounts, with the majority of these accounts possessing female user names. Of these Instagram accounts, Curtis sent direct messages to hundreds of accounts and the majority of these direct messages included the exchange of digital images or videos. The typical exchange of digital images included Curtis sending a picture of a young female that he was purporting himself to be, and the other person sending a picture of himself/herself in exchange. Curtis would frequently then say he was looking for models.

21. Upon review of the images that Curtis received, the majority of them consisted of females who appeared to be under the age of 18. Many of the girls sent photos of themselves in different outfits, to include tightly fit clothing, such as leggings, which were a frequent request of Curtis, and some in their underwear or bathing suits. Some of the girls that sent photos of themselves appeared to be under the age of 12.

#### **Other Criminal Conduct**

22. In December 2016, Facebook reported the upload of child pornography and child erotica to the National Center for Missing and Exploited Children ("NCMEC"). The NCMEC CyberTip pertained to three uploaded images made by Facebook user "Kelley Popper" with associated IP address of 72.90.81.5, the same IP address accessed by fashiondesign564. As previously noted, this IP address resolved to Moyers Corners Fire Department as the subscriber. Two of the images did not have a date, time, or IP address reported per the NCMEC CyberTip. One of the images, depicted a prepubescent female appearing under the age of 10, laying on her back with legs spread, vagina exposed, and an adult female licking the prepubescent female's vagina. Per the NCMEC CyberTip, this image was uploaded on December 28, 2016 from IP address 72.90.81.5. The NCMEC CyberTip was sent along to the New York State Internet Crimes Against Child Task Force ("ICACCOPS").

23. In October 2017, separate and distinct from the above described actions on Instagram and in Ohio, the New York State Police (NYSP) received the aforementioned NCMEC CyberTip from ICACCOPS. Subpoenas were served by both ICACCOPS and the NYSP on the Kelley Popper Facebook account. Facebook returns showed subscriber information for the Kelley Popper Facebook having an IP address of 45.47.32.164, again the same as the fashiondesign564 account. The NYSP and ICACCOPS served a subpoena for subscriber information to Charter Communications, the Internet Service Provider for the 45.47.32.164 IP address. In response to that subpoena, Charter Communications identified the subscriber as Richard Curtis, 3750A Helios Court, Baldwinsville, NY.

24. In November 2017, the NYSP conduct a “knock and talk” at 3750A Helios Court, Baldwinsville, NY. The NYSP encounter Richard F. Curtis, son of Richard Curtis. The NYSP advised Richard F. Curtis of his Miranda rights, to which he stated that he understood and agreed to waive them. Upon questioning, he admitted to owning the Kelley Popper Facebook account as well as to trading child pornography. He also admitted to using an “alter ego” to pretend to be a woman in order to receive, look at, and trade child pornography. He further admitted to using Facebook to receive, look at, and trade child pornography. He also admitted to uploading the images identified in the NCMEC CyberTip using the Moyers Corners Fire Department WiFi. Curtis was a volunteer firefighter at the department at the time.

25. Finally, Curtis admitted to having sexual contact with two minors aged 10 and 11. Subsequent interviews with one of the minors confirmed the sexual contact. Curtis gave written consent to the NYSP police to examine his Apple iPhone 6S, Model A1633, among other devices. The NYSP performed a limited forensic preview of the device and discovered images consistent with child pornography.

26. In November and December 2017, Richard F. Curtis was charged by New York State with three counts of Possession of a Sexual Performance by a Child, one count of Promoting a Sexual Performance by a Child, and one count of Criminal Sexual Act 1<sup>st</sup> with a victim less than 11 years old, for the activity discovered on the Kelley Popper Facebook account, the child pornography on his devices, and the sexual contact he had with a minor. On September 28, 2018, Curtis plead guilty to Criminal Sex Act 3<sup>rd</sup> degree: lack of consent /victim not capable of consent and was sentenced to 1 year incarceration. On that same date he was also convicted of Possessing a Sexual Performance by a Child under the age of 16: Possession/Access To View and was sentenced to 10 years probation.

#### **Interview of Richard F. Curtis**

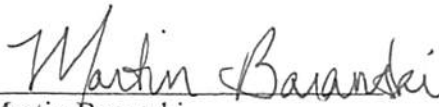
27. On February 6, 2019, Curtis was interviewed by your affiant and Task Force Officer (“TFO”) Andrew Wilmot at the Onondaga County Correctional Facility, where Curtis was serving his 1-year sentence for Criminal Sexual Act in the 3rd Degree. Curtis was told that he was not under arrest. The interview was conducted in an interview room, in which Curtis was not restrained or handcuffed, and the interviewing Agents were not armed.

28. Curtis was advised of his Miranda Rights by TFO Andrew Wilmot, and acknowledged he understood his rights. Curtis agreed to waive his rights and speak with us. Curtis confirmed that he was the sole creator and owner of the Instagram fashiondesign564 account. Curtis admitted that he used the Instagram fashiondesign564 account to solicit nude and lascivious pictures and videos from young girls. Curtis estimated that he solicited about 20 naked pictures of young girls through the Instagram fashiondesign564 account. He also estimated that the youngest girl that he solicited naked pictures from was approximately 12 years old.

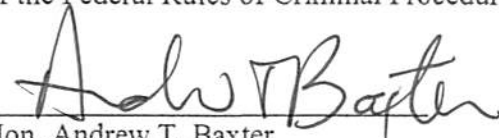
CONCLUSION

29. Based on the foregoing information, there is probable cause to conclude that Richard F. Curtis knowingly received child pornography in the Northern District of New York that had been transported using any means of interstate and foreign commerce and in and affecting such commerce, in violation of Title 18, United States Code, Section 2252A(a)(2)(A).

ATTESTED TO BY THE APPLICANT IN ACCORDANCE WITH THE REQUIREMENTS OF RULE 4.1 OF THE FEDERAL RULES OF CRIMINAL PROCEDURE.

  
Martin Baranski  
Special Agent  
Federal Bureau of Investigation

I, the Honorable Andrew T. Baxter, United States Magistrate Judge, hereby acknowledge that this affidavit was attested by the affiant by telephone on January , 2021, in accordance with Rule 4.1 of the Federal Rules of Criminal Procedure.

  
Hon. Andrew T. Baxter  
United States Magistrate Judge